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7

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

12 **MATTHEW CODY VANCLEVE**

13 Registered Nurse License Application

14 Respondent.
15

Case No. **2013-88**

16 **STATEMENT OF ISSUES**

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about May 18, 2011, the Board received an application for a Registered Nurse
23 License from Matthew Cody Van Cleve (Respondent). On or about May 16, 2011, Matthew
24 Cody VanCleve certified under penalty of perjury to the truthfulness of all statements, answers,
25 and representations in the application. The Board denied the application on September 15, 2011.
26 On or about September 19, 2011, Respondent wrote a letter to the Board, requesting a hearing to
27 appeal the denial of his application for a registered nurse license.

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1 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be
3 conclusive evidence thereof . . ."

4 7. Section 2762 states, in pertinent part:

5 "In addition to other acts constituting unprofessional conduct within the meaning of this
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
7 chapter to do any of the following:

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9 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous devise as defined in
11 Section 4022, or alcohol beverages, to an extent or in a manner dangerous or injurious to himself
12 or herself, any other person, or the public or to the extent that such use impairs his or her ability
13 to conduct with safety to the public the practice authorized by his or her license.

14 (c) Be convicted of a criminal offense involving the prescription, consumption, or
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
16 or the possession of, or falsification of a record pertaining to, the substances described in
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
18 thereof . . ."

19 **REGULATORY PROVISION**

20 8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

21 "A conviction or act shall be considered to be substantially related to the qualifications,
22 functions or duties of a registered nurse if to a substantial degree it evidences the present or
23 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
24 safety, or welfare. Such convictions or acts shall include but not be limited to the following:"

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26 "(c) Theft, dishonesty, fraud, or deceit. . . ."

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1 agency, as required by law. Then, when law enforcement officers interviewed him at his address
2 about the hit and run accident, he was dishonest, in that he initially denied that he had been
3 driving his vehicle that night, and falsely claimed that a friend of his had been driving it.

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

5 **(Dishonest Acts)**

6 10. Respondent's application is subject to denial under Section 480, subdivision (a)(2), in
7 that on or about February 26, 2003, Respondent committed acts involving dishonesty, fraud, or
8 deceit with the intent to substantially benefit herself and others, and substantially injure others
9 when he caused a motor vehicle accident and failed to stop and provide information.

10 Complainant refers to and by this reference incorporates the allegations set forth above in
11 Paragraph 9, subparagraph d, inclusive, as though set forth fully.

12 **THIRD CAUSE FOR DENIAL OF APPLICATION**

13 **(Conduct Warranting License Discipline)**

14 11. Respondent's application is subject to denial under Section 480, subdivision
15 (a)(3)(A), in that Respondent committed acts which, if committed by a licensed registered nurse,
16 would be grounds for suspension or revocation of the license by violating sections as follows:

17 a. Sections 490 and 2761, subdivision (f). On or about March 11, 2009, and December
18 2, 2003, Respondent sustained substantially related criminal convictions.

19 b. Sections 2761, subdivision (a), and 2762, subdivision (b). On or about September 23,
20 2008, on the grounds of unprofessional conduct, Respondent used alcoholic beverages to an
21 extent or in a manner dangerous or injurious to himself or others.

22 c. Section 2761, subdivision (a), and 2762, subdivision (c). On or about March 11,
23 2009, on the grounds of unprofessional conduct, Respondent sustained a criminal conviction
24 involving the self-administration of alcoholic beverages.

25 d. Section 2761, subdivision (a). On or about February 26, 2003, and September 23,
26 2008, Respondent committed acts of unprofessional conduct.

27 Complainant refers to and by this reference incorporates the allegations set forth above in
28 Paragraph 10, subparagraphs a - d, inclusive, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Denying Matthew Cody VanCleve's Registered Nurse License Application; and
2. Taking such other and further action as deemed necessary and proper.

DATED: August 2, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

LA2012602200'